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FILED
Superior Court of California
County of Riverside
6/24/2019
B. Tucker
By Fax

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF RIVERSIDE

11 COMITÉ LATINO,
12 Plaintiff,
13 vs.
14 CITY OF INDIO, and DOES 1-25, Inclusive,
15 Defendants.
16

Case No.: **PSC1904258**

COMPLAINT

1. Violation of Civil Code § 51 *et seq.*
2. Violation of Gov't Code § 11135

DEMAND FOR JURY TRIAL

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19 Plaintiff COMITÉ LATINO for its Complaint against Defendant CITY OF INDIO and
20 DOES 1 through 25, and each of them, complains and alleges as follows:

21 **NATURE OF THE ACTION**

- 22 1. This action is brought by Comité Latino, an association, against the City of Indio,
23 for violations of their rights to be free from discrimination in business establishments, deprivation
24 of their rights to make and enforce contracts, and violations of their rights to be free from
25 discrimination in a state funded facility or program.
- 26 2. City of Indio, ("Defendant" or "Indio") denied full and equal access of The Indio
27 Senior Center ("Senior Center") to Comité Latino members in violation of the fundamental public
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1 policies embodied in the Unruh Civil Rights Act, specifically those policies prohibiting
2 discrimination on the basis of ancestry and national origin.

3 3. City of Indio further denied Comité Latino members access to Senior Center
4 facilities and activities after Comité Latino members paid an annual membership or participation
5 fees to the City of Indio in violation of Government Code § 11135.

6 4. By way of this lawsuit, Comité Latino seek injunctive relief giving them equal access
7 to the Senior Center facilities and requiring City of Indio to create and enforce fair and equitable
8 rules regarding the use of the Senior Center.

9 **PARTIES**

10 5. Plaintiff Comité Latino, is, and at all relevant times herein was, an association based
11 in the County of Riverside, State of California. Comité Latino is an association of Latino men,
12 and all its members paid dues to the Senior Center.

13 6. Defendant City of Indio is, and at all relevant times mentioned herein, was a public
14 government entity formed pursuant to California law. Plaintiff is informed and believes and
15 thereon alleges the City of Indio receives state funds.

16 7. The true names and capacities of the Defendants named herein as Does 1 through
17 25, inclusive, whether individual, corporate, associate, or otherwise, are unknown to Plaintiff, who
18 therefore sues such Defendants by fictitious names pursuant to Code of Civil Procedure section
19 474. Plaintiff is informed and believes, and thereon alleges, that each of the fictitiously named
20 Defendant is responsible in the manner set forth herein, or some other manner, for the
21 occurrences alleged herein, and that the damages as alleged herein were proximately caused by their
22 conduct.

23 8. Plaintiff is informed and believes, and thereon alleges, that each of the fictitiously
24 named Defendant is a California resident. Plaintiff will amend this complaint to show the true
25 names and capacities of each of the fictitiously named Defendant when such names and capacities
26 have been determined.

27 9. Plaintiff is informed and believes and thereon alleges that each of the Defendants
28 was the agent, servant, employee, joint venturer, joint owner, joint tenant, community property

owner, guarantor and/or partner of each of the other co-Defendants, and in doing or failing to do the things alleged herein, each co-Defendant was acting within the scope of authority conferred upon that party by consent, approval and/or ratification of each of the other co-Defendants, whether said authority was actual or apparent. "Defendants," as used hereinafter, means each and all of the Defendants, unless the context requires otherwise.

FACTUAL ALLEGATIONS

10. Plaintiff Comité Latino members have been visiting the Indio Senior Center for many years, dating back to approximately 2012.

11. Comité Latino members paid annual membership or participation fees to City of Indio in exchange for their utilization of the center facilities.

12. Among other activities, members of Comité Latino have enjoyed the exercise room and the game room, where they particularly liked to play dominos and pool. The game room has included, at various times, up to three pool tables, two game tables (one of which is comfortable for senior participants), and several portable card tables that could be erected as needed.

13. In utilizing the Center facilities, members of Comité were able to find respite from the heat of the desert and to enjoy the company of their friends and neighbors who also used the Center's facilities; indeed, some of these friendships they developed at the Center.

14. For a time, Comité member's recreation at the Center was uncontroversial, until Nancy Vance was hired or promoted to manager of the site.

15. From the inception of Vance's management of the Center, Comité members and their Latino counterparts have strongly felt Vance's discriminatory animus toward them, bolstered by the support of supervisor Jim Curtis.

16. In addition to outwardly negative and personal behavior toward Comité members, Vance, Curtis, and the other Center staff have also engaged in enforcement and other actions that indicate a disregard for traits and behaviors associated with Latino and Mexican culture.

17. After enduring months or years of this discriminatory behavior, Comité members began voicing their opposition to discriminatory practices and refusing to submit to the Center's discriminatory orders.

1 18. When their requests for fair and non-discriminatory treatment failed, Plaintiff
2 members also contacted the media, staged peaceful demonstrations outside the Center, and
3 recorded certain behavior and incidents in public spaces.

4 19. In response to Comité Latino's members' exercise of their rights, the Center's
5 discriminatory behavior also turned retaliatory.

6 20. Discriminatory and retaliatory actions that Vance and other Center staff and board
7 members have taken against them include:

8 a. Vance frequently ordered Comité Latino members to stop playing their
9 domino games before they finished, in order to allow white and/or female patrons of the Center to
10 use the domino tables. Further, Vance and the Center have refused to replace or lower the second
11 game table, which is too high to be comfortably used.

12 b. The Center regularly disciplines all Latino male participants with suspension
13 or other penalty, based upon the allegedly bad behavior of one or two Latino male participants.
14 This categorical group discipline style does not exist toward white and/or female patrons

15 c. The Center reprimands and/or disciplines Latino male participants for the
16 volume of their excitement and celebrations while playing dominos and pool with no regard for
17 cultural sensitivities or other manners of volume control (i.e. closing the game room doors).

18 d. Center president or board member Silvia (surname unknown) told Comité
19 Latino members that they caused her to be embarrassed to be Mexican and that they should go to
20 Mexico where they wouldn't be treated so badly.

21 e. The Center closed off the room to all games altogether starting
22 approximately mid-April of 2019, after Plaintiffs refusal to give up their game table in the middle of
23 a domino game to permit three women to play a different game. Soon after, in a meeting with
24 several Comité Latino members, Center management indicated that it would relocate the group of
25 Latino men to use space in a building the Center which was purportedly owned by the City. This
26 allegedly "separate but equal" space, however inappropriate, was never ultimately even opened or
27 offered, in part because it burned down.

1 21. When Comité Latino members realized that their multiple complaints to Center
2 management were not only ineffective, but – worse – caused increasingly negative and retaliatory
3 behavior, they elevated their complaints to City of Indio councilmembers and city management
4 staff.

5 22. On or about June 2018, Comité members met to raise their complaints with Indio
6 City officials including Councilmember Troy Strange, Police Administrative Officer Ben Guitron,
7 an outreach liaison believed to be Alex Franco; and community advocate Lynne O'Neill.

8 23. Despite several promises of quick resolution made in that meeting, nothing was
9 resolved.

10 24. More recently, the City of Indio has diverted members of Comité to the Indio Teen
11 Center for an extremely limited window of time during which they are allowed to use the Teen
12 Center facilities, and has indicated that it will renovate the game room to remove pool tables and
13 domino tables.

14 25. At all relevant times, Defendant, and each of them, knew of Comité Latino's issues
15 through their disclosures, and their requests for remedy including by resorting to the Senior Center
16 manager and members of the City Council. Further, Defendant knew of Comité Latino's
17 complaints against the Senior Center regarding discrimination because one of its managers worked
18 in the Senior Center.

19 **FIRST CAUSE OF ACTION**
20 Violation of Civil Code § 51 *et seq.*
 (Against All Defendants)

21 26. Plaintiff re-alleges and incorporates by reference each and every preceding paragraph
22 of this complaint as though fully set forth herein.

23 27. California Civil Code section 51 *et seq.*, also known as the Unruh Act, provides that
24 all persons in this state are entitled to the "full and equal accommodations, advantages, facilities,
25 privileges, or services in business establishments of any kind whatsoever," regardless of, *inter alia*,
26 ancestry, primary language or national origin.

27 28. Plaintiff is informed and believes and thereon alleges that the aforementioned
28 conduct of Defendant denied Plaintiff equal accommodations to Defendant's facilities, based solely

1 upon Plaintiff's ancestry and national origin or perceived ancestry and national origin (Mexican),
2 and therefore constituted a violation of the Unruh Act.

3 29. As a proximate cause of Defendants' wrongful conduct as referenced above, Plaintiff
4 suffered harm in that the members' civil rights were violated.

5 30. Plaintiff seeks statutory penalties and prevailing party attorneys fees.

6 31. Plaintiff seeks equitable relief including declaratory relief that Defendant violated
7 Civil Code § 51 as to treatment of Plaintiff and injunctive relief prohibiting Defendant from
8 continuing to violate Civil Code § 51 and also requiring Defendant to create and enforce fair and
9 equitable rules regarding the use of the Senior Center.

10 **SECOND CAUSE OF ACTION**

11 Violation of Gov't Code § 11135

12 (Against All Defendants)

13 32. Plaintiff re-alleges and incorporates hereby by reference each and every preceding
14 paragraph as though fully set forth herein.

15 33. Government Code § 11135 provides in pertinent part that no person in the State of
16 California shall, on the basis of ancestry, national origin, ethnic group identification, be unlawfully
17 denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under,
18 any program or activity that is funded directly by the state or received any financial assistance from
19 the state.

20 34. Government Code § 11135(f) clarifies that any person who is perceived to have, or
21 is associated with someone who has, any of the characteristics listed under § 11135 is also protected
22 from discrimination in state-funded programs.

23 35. Plaintiff is informed and believes and thereon alleges that the aforementioned
24 conduct of Defendant denied Comité Latino's full and equal access to the services, programs, and
25 activities offered by Defendant to members of the Senior Center in violation of Government Code
26 § 11135.

27 36. Defendant's conduct denied other Comité members, who are "associated with"
28 members of Comité Latino, an association, full and equal access to the services, programs, and
activities offered in violation of § 11135.

37. As a direct and proximate result of The Indio Senior Center's violation of Government Code § 11135, individual members and Comité Latino have been injured as set forth herein.

38. Government Code § 11139 states in pertinent part, “This article and regulations adopted pursuant to this article may be enforced by a civil action for equitable relief, which shall be independent of any other rights and remedies.”

39. Plaintiff seeks equitable relief including declaratory relief that Defendant violated Government Code § 11135 as to treatment of Plaintiff and injunctive relief prohibiting Defendant from continuing to violate Government Code § 11135, and also requiring Defendant to create and enforce fair and equitable rules regarding the use of the Senior Center.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, jointly and severally, for all causes of action alleged herein, as follows:

1. For statutory penalties;
2. For statutory attorneys fees, including but not limited to C.C.P. § 1021.5;
3. For declaratory relief;
4. For injunctive relief;
5. For costs;
6. For such other and further relief as the Court may deem proper and just.

Dated: June 6, 2019

SETHI LAW FIRM

By Rahul Sethi

Rahul Sethi

Attorneys for Plaintiff, COMITÉ LATINO

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DEMAND FOR JURY TRIAL

Plaintiff COMITÉ LATINO hereby demands trial by jury.

Dated: June 6, 2019

SETHI LAW FIRM

By Rahul Sethi
Rahul Sethi
Attorneys for Plaintiff, COMITÉ LATINO

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|--|--|--|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Rahul Sethi (SBN 261539) SETHI LAW FIRM 5015 Eagle Rock Blvd., Suite 202 Los Angeles, CA 90041 TELEPHONE NO.: (213) 254-2454 FAX NO.: ATTORNEY FOR (Name): Plaintiff, COMITE LATINO | | FOR COURT USE ONLY | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE STREET ADDRESS: 3255 E. Tahquitz Canyon Way MAILING ADDRESS: (same) CITY AND ZIP CODE: Palm Springs, CA 92262 BRANCH NAME: Palm Springs Courthouse | | CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold;">PSC1904258</div> | |
| CASE NAME: Comite Latino v. City of Indio | | | |
| CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) | | Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) | |
| | | JUDGE: DEPT: | |

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

| | | |
|---|--|--|
| Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other Non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|--|

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **2**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **June 6, 2019**

Rahul Sethi

(TYPE OR PRINT NAME)

► *Rahul Sethi*

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition